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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,265	07/22/1999	JAY S. WALKER	WD2-99-055	2597

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EXAMINER

RIMELL, SAMUEL G

ART UNIT PAPER NUMBER

3626

DATE MAILED: 05/16/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/359,265

Applicant(s)

WALKER ET AL.

Examiner

Sam Rim II

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 44-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-27, 44-49 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

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Preliminary Note: This office action has not been made final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 5-8, 11-17, 19-26 and 44-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. ('620).

Claim 1: Column 5 outlines the establishment of a first flexibility range from a first customer in the form of a window of departure (col 5, line 12) for a specific origination-destination pair (col. 5, line 53). A second flexibility range is range is obtained from a second customer, in particular, a customer who specifies an exact departure time for the origination-destination pair. The travel product is an airline flight that satisfies the flexible departure time of the first customer and the specific departure time of the second customer. As seen in col. 5, lines 10-15, the first customer who specified the window of departure times receives a first discounted price and the second customer who requires a specific time receives a second price based on standard, non-discounted rates.

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Claim 2: The first price is determined by discounting a standard rate (col. 5, line 14).

Claim 5: As seen in col. 5, lines 10-15, the first price is proportional to how wide the window of departure is. The wider the window, the larger the discount.

Claim 6: The set of tolerances is the range of departure times, with the actual variable being departure time.

Claim 7: The variable of departure time can have minimum and maximum values, such as “8AM to 8PM” (col. 5, line 12).

Claim 8: The flexibility range is inclusive of an acceptable time and date.

Claim 11: The first price is discounted from a standard fare. The standard fare reads as the wholesale price and then “predetermined value” is whatever factor is used to establish the degree of discounting.

Claim 12: The price of the travel product can be based on a bid submitted by the customer (col. 6, lines 45-48), in which case, the price would not be greater than the bid price submitted by the customer. If the customer’s bid is too low, it is rejected, not raised (col. 6, line 63).

Claim 13: The preferred travel product is the specific itinerary that is provided by a prospective passenger when they initially contact a travel agent (col. 5, line 52). The management system of Walker et al. identifies a range of airline flights that may differ from this initial itinerary, but still meet the window of departure times specified by the first customer.

Claim 14: The specific flight which is assigned to the first customer is randomly selected from a database of available flights that satisfy the first customer’s window of departure and origination-destination pair.

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Claim 15: The selection of the exact flight for the first customer is accomplished by a revenue management system (col. 6, line 16).

Claim 16: The first customer is provided a voucher, which is referred to as an “unspecified time ticket” (col. 5, line 58).

Claim 17: Details regarding the unspecified time ticket are transmitted to the revenue management system (col. 6, lines 9-13).

Claim 19: See remarks regarding claim 1. Note that the travel product provided to the first customer is an airline flight selected from a range of available airline flights that satisfy both the window of departure time and origination-destination pair specified by the customer.

Claim 20: See remarks for claim 2.

Claim 21-22: See col. 5, line 15.

Claim 23: See remarks for claim 12.

Claim 24: See remarks for claim 13.

Claim 25: See remarks for claim 14.

Claim 26: See remarks for claim 15.

Claims 44-49: See remarks for claims 1 and 19.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. ('620).

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Walker et al. differs from claims 9 and 10 in that it does not explicitly call for a flexibility range for a level of service (first class/coach class) or a location assignment (location of a seat in first class or coach class). However, Examiner takes Official Notice that these are well known types of flexibilities that can be specified by a traveler. Specifying flexibility for a level of service or a location assignment would have been obvious to one of ordinary skill in the art as a choice of design.

Walker et al. differs from claims 18 and 27 in that it does not specify penalties if the customer fails to purchase the travel product. However, Examiner takes Official Notice that the application of penalties for canceling a ticket or reservation are very well known in the art. Applying a penalty for a cancellation of a ticket or reservation would have been obvious to one of ordinary skill in the art as a choice of design.

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Remarks

Examiner agrees with Applicant's assertions that the present amendments overcome the reference to Ahlstrom et al. However, they do not overcome the teachings of Walker et al., and the reference to Walker et al. has been applied. This office action is not made final.

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Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', written in a cursive style.

Sam Rimell
Primary Examiner
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